IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

OP.No. 16261 of 2000(J)

PETITIONER:

V.K. MOHAMMEDKUTTY,
VALIAKATH HOUSE,
KADANGODE.P.O.,
ERUMAPETTY,
THRISSUR.

BY ADV. SMT.I.SHEELA DEVI,
SMT.REJI RAMACHANDRAN.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
SECRETARY TO GOVERNMENT,
DEPARTMENT OF FOOD & CIVIL SUPPLIES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. **COMMISSIONER OF CIVIL SUPPLIES,**
THIRUVANANTHAPURAM.

3. **DIRECTOR OF CIVIL SUPPLIES,**
THIRUVANANTHAPURAM.

4. **DEPUTY CONTROLLER OF RATIONING CENTRAL ZONE,**
THRISSUR.

5. **TALUK SUPPLY OFFICER,**
THALAPPILLY,
WADAKKANCHERRY.

BY GOVERNMENT PLEADER SMT. T.B. RAMANI.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 26644/2000 IN O.P. NO. 16261/2000-J

DISMISSED

05/11/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE SHOW CAUSE NOTICE DTD. 30/09/97 ISSUED BY THE R.4.

EXT.P.1.A: COPY OF THE ORDER NO. B.631/97 DTD. 31/03/1998 ISSUED BY THE RATIONING DEPUTY CONTROLLER.

EXT.P.2: COPY OF THE APPEAL MEMORANDUM DTD. 09/05/1998 SUBMITTED BY THE PETITIONER BEFORE THE R.3.

EXT.P.2.A: COPY OF THE ORDER NO. CS. A8.24235/98 DTD. 17/12/1998 ISSUED BY THE R.3.

EXT.P.3: COPY OF THE REVISION PETITION DTD. 30/01/1999 FILED BY THE PETITIONER BEFORE THE GOVERNMENT.

EXT.P.4: COPY OF THE COMMUNICATION NO. C81966/97 DTD. 21/06/1999 OF THE R.5.

EXT.P.5: COPY OF THE JUDGMENT IN O.P. 16506/1999 DTD. 02/07/1999 OF THIS HONOURABLE COURT.

EXT.P.6: COPY OF THE ORDER NO. CSAD. 8975/2000 DTD. 21/03/2000 ISSUED BY THE R.3.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.16261 OF 2000

Dated this the 5th day of November, 2007

JUDGMENT

Petitioner was the licensee of an ARD. An inspection was conducted in the ration shop. It was found that the entire sales were not recorded and certain materials which have been shown to have been sold were not reflected in the stock register. Proceedings were initiated to terminate the licence and also to take action for recovery in accordance with law.

2. The plea of the petitioner was that the inspection was conducted immediately on the opening of the shop on a particular day and that all the transactions of the previous day could not be entered in the register, as usual, owing to heavy rush. Overruling the contentions, the competent authority cancelled the licence and imposed penalty by recovery of the security deposit and also recovery of the value of goods, which were not accounted for. The Director of Civil Supplies affirmed that decision by an order, which could be characterised as a

cryptic one. However, that order cannot be now held to be vitiated, because, the Commissioner of Civil Supplies, as per Ext.P6 order, stated reasons for affirming the decision of the subordinate authorities. The cancellation of the licence and the recovery of the security amount and the value of the goods were found to be in order. To that extent, there is no jurisdictional error or legal infirmity in the impugned decision. By the last sentence in the penultimate paragraph of Ext.P6, it has also been clarified by the Commissioner that "As regards the claim of the revision petitioner for the value of the rationed articles seized, it stands to reason that any amount in excess of the value of items found short/excess is refundable to the revision petitioner." Therefore, any amount in excess of the value of items short/excess is bound to be refunded. Any grievance of the petitioner in that regard also, therefore, stands redressed.

Hence, while affirming the impugned proceedings, this writ petition is disposed of directing that if any amount is found due to the petitioner towards value of articles seized in excess of the

value of articles found short/excess, the same shall be quantified and adjusted or refunded within an outer limit of two months from the date of receipt of a copy of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.16261 OF 2000

JUDGMENT

5TH NOVEMBER, 2007.

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